



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

MH:JL
F. #2007R00730

*271 Cadman Plaza East
Brooklyn, New York 11201*

February 26, 2008

The Honorable Nicholas G. Garaufis
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Joseph Agate, et al.
Criminal Docket No. 08 CR 76 (NGG)

Dear Judge Garaufis:

The government writes to advise the Court of certain matters in advance of the status conferences scheduled for February 27 and 28, 2008.

1. Arraignments

To date, all of the defendants have been arraigned except for: (1) Nicholas Corozzo, Chris Howard and John Kasgorgis, who were not arrested and remain at large; (2) William Kilgannon, who was arrested in the Middle District of Florida and removed out of custody to this district; and (3) Thomas Cacciopoli, Russell Ferrisi and Angelo Ruggiero, Jr., who are in federal custody on prior cases.

Kilgannon, Ferrisi and Ruggiero are scheduled to appear at the status conferences. Cacciopoli has not yet been produced from FCI Fort Dix. When he arrives in the district, the government will contact the Court and defense counsel to arrange a date for arraignment.¹

¹ Defendant Michael Urciuoli will not appear at the status conference due to a his arrest on state charges since his arraignment.

2. Detention Hearings

The government sought permanent pretrial detention against 19 of the defendants. To date, detention hearings have been held in the case of John D'Amico, Leonard DiMaria, Louis Pacelli, Richard Ranieri, Mario Cassarino and Vincent Dragonetti. In each case, bail was denied and a permanent order of detention was entered. Detention hearings also have been held in the case of Nicholas Calvo, Frank Cali and Louis Filippelli. In each case, either a temporary order of detention or a permanent order with leave to renew has been entered.

3. Complex Case Designation

The government filed a motion seeking to designate this case complex under the Speedy Trial Act. As set forth in the motion, the number of defendants and the nature of the prosecution warrant such a designation under 18 U.S.C. § 3161(h)(8)(B)(ii).

4. Casamento Submission

The government submitted a memorandum pursuant to United States v. Casamento, 887 F.2d 1141, 1151-52 (2d Cir. 1989). Defendant Louis Filippelli filed a motion seeking to split up the case pursuant to Casamento. As set forth in the government's memorandum, given the early stage of the proceedings, the concerns set forth in Casamento have not yet been implicated and do not warrant division of the case, if at all, for some time.

5. Detention Issues

Currently, 19 defendants are incarcerated: 14 at the Metropolitan Detention Center ("MDC"), three at the Metropolitan Correctional Center ("MCC"), and two at the Queens Private Correctional Facility.

Joseph Corozzo, Vincent Dragonetti, Vincent Gotti and Mario Cassarino filed motions objecting to their initial administrative detention and the separation requests at the MDC. The government, in response, explained that the defendants have since been released from administrative detention and the request to separate the defendants into the seven general population housing units, each containing either two or three defendants, has avoided the need for any further administrative detention. Dragonetti, in reply, argued that the separation requests

nevertheless unreasonably effect attorney visits.²

The MDC advises that currently, six defendants are housed in three units (two in each) in the East Building, and eight defendants are housed in four units (one in one unit, two in two units and three in a fourth unit) in the West Building. The separation requests only apply to defendants housed in different units.

The government has offered to assist defense counsel in resolving any issues to minimize inconvenience and delay in attorney visits, including devising a schedule to facilitate the visitation process. To that end, the government has requested that MDC Staff Attorney Adam Johnson attend the status conferences to answer any questions in connection with the defendants at the MDC.

6. Co-Defendant Meeting

Defense counsel sought to arrange a co-defendant meeting following the status conference on February 27, 2008. The government has been advised that given the logistical issues involved in producing the 19 incarcerated defendants, the request could not be accommodated on such short notice.

7. Reassignment Motions

Joseph Corozzo filed a motion seeking reassignment of this case. To date, Leonard DiMaria, William Scotto, Joseph Chirico, Vincent Pacelli, Frank Cali, Joseph Agate, Joseph Spinnato and Charles Carneglia have joined in that motion. Pursuant to the Court's order, any other defendants have until February 29, 2008, to join in the motion. The government will respond to the motions by March 7, 2008.

8. Discovery

a. Recordings

To date, the government has furnished discovery, pursuant to Rule 16 of the Federal Rules of Criminal Procedure, including: (1) wiretap recordings and documentation relating to

² Defendant Louis Filippelli also moved to remove the separation request in place at the MCC. BOP has indicated that Filippelli may be returned to FCI Fort Dix, where he was serving a prior sentence, following the status conference.

more than 50 different telephone lines over 30 months resulting in excess of 1000 hours of conversations; and (2) consensual recordings over three years resulting in more than 500 hours of conversations. Those materials, which constitute a significant percentage of the government's total discovery, have been produced to copy centers and are available for copying by the defendants.

The government has provided a list of the defendants who have been intercepted over the wiretaps and will do the same with respect to the consensual recordings within the next two weeks. The government will continue to furnish discovery and estimates that the vast majority of discovery will be completed over the next three months.

b. Search Warrants

At or around the time of the arrests, the government executed search warrants at 10 different locations. In those searches, the government seized a total of almost 500 boxes of documents and over 20 computers. The government is in the process of reviewing the documents and computer files and estimates that it will furnish discovery relating to that material within the next three months.

9. Plea Offers

At the status conferences, the government will distribute plea offers to all but two of the defendants who have appeared. The plea agreements require the entry of guilty pleas by May 28, 2008, for the defendants to take advantage of reductions for acceptance of responsibility and global points.

10. Victim Notifications

In accordance with its obligations under the Justice for All Act, 18 U.S.C. § 3771, the government has made its best effort to notify the victims of the charged crimes of the status conferences. The government will continue to provide notice of future court proceedings.

11. Disqualification/Curcio

The government will file a motion seeking to disqualify Joseph Corozzo, Esq. and Ronald Rubinstein, Esq., and the law firm of Rubinstein & Corozzo, P.C., from continued representation of defendants Joseph Corozzo and Arthur Zagari based on a number of conflicts of interest. The government also

12. Next Status Conference

13. Speedy Trial Act Exclusions

cc: All Counsel of Record